

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY

Nigel Brown  
(Enter above the full name of the plaintiff in this action)

COMPLAINT

v.

Civil Action No. 06-5700 (FSH)  
(To be supplied by the clerk of the court)

CMS (Correctional  
Medical Services)

RECEIVED

NOV 29

AT 8:30 M  
WILLIAM T. WALSH, CLERK

(Enter above full name of the defendant or defendants  
in this action).

INSTRUCTIONS - READ CAREFULLY

1. This complaint must be legibly handwritten or typewritten, signed by the plaintiff and subscribed to under penalty of perjury as being true and correct. All questions must be answered concisely in the proper space on the form. Where more space is needed to answer any questions, attached a separate sheet.
2. In accordance with Rule 8 of the Federal Rules of Civil Procedure, the complaint should contain (1) a short and plain statement of the grounds upon which the court's jurisdiction depends, (2) a short plain statement of the claim showing that you are entitled to relief, and (3) a demand for judgment for the relief which you seek.
3. You must provide the full name of each defendant or defendants and where they can be found.
4. You must send the original and one copy of the complaint to the Clerk of the District court. You must also send one additional copy of the complaint for each defendant to the Clerk. Do not send the complaint directly to the defendants.
5. Upon receipt of a fee of \$150.00, your complaint will be filed. You will be responsible for service of a separate summons and copy of the complaint on each defendant. See Rule 4, Federal Rule of Civil Procedure.

If you cannot prepay the \$150.00 filing fee, you may request permission to proceed in forma pauperis in accordance with the procedures set forth below. (If there is more than one plaintiff, each plaintiff must separately request permission to proceed on forma pauperis.)

The Prison Litigation Reform act of 1996 ("PLRA"), effective April 26, 1996, has made significant changes to the in forma pauperis statute, 28 U.S.C. § 1915. The statute no longer provides for waiver of court filing fees for prisoners who are granted leave to proceed in forma pauperis. A prisoner who is granted leave to proceed in forma pauperis is not required to pay the filing fees in advance, but the prisoner is obligated to pay the entire filing fee in installment payments regardless of the outcome of the proceeding. This obligation to pay the filing fee continues even if the prisoner is transferred to another prison. Therefore, before submitting this application to the Clerk of the Court, a prisoner should consider carefully whether he or she wishes to go forward with the action.

The PLRA obligates prisoners who are granted in forma pauperis status to pay the entire filing fee in the following manner, regardless of the outcome of the litigation. 28 U.S.C. § 1915(b)(1) and (2). The agency having custody over the prisoner shall deduct from the prisoner's institutional account and forward to the Clerk of the Court (1) an initial partial filing fee equal to 20% of the greater of the average monthly deposits to the prisoner's account or the average monthly balance in the prisoner's account for the six-month period immediately preceding the filing of the complaint, and (2) payments equal to 20% of the preceding month's income credited to the prisoner's institutional account each month the amount in the account exceeds \$10.00, until the \$150.00 filing fee is paid. 28 U.S.C. § 1915(b)(1) and (2). However a prisoner who has no assets and no means by which to pay the initial partial filing fee will not be prohibited from bringing a civil action. 28 U.S.C. § 1915 (b)(4).

Each prisoner plaintiff who desires to proceed in forma pauperis must submit the following to the Clerk of the Court.

- a. a completed, signed, and dated application to proceed in forma pauperis (attached hereto); and
  - b. a certified copy of your prison account statement for the 6-month period immediately preceding submission of this application, listing the account balance and all deposits into the account. A prison account statement must be obtained from the appropriate official of each prison at which you are or were confined during the preceding 6 months.
7. If your application to proceed in forma pauperis does not conform to these instructions, you will be notified by letter of the nature of the deficiencies. If these deficiencies are not cured within 120 days of the date of the letter, the complaint will be deemed withdrawn, the Clerk's file will be closed, and no fees will be assessed against you.
8. If you are given permission to proceed in forma pauperis, the Clerk will prepare and issue a copy of the summons for each defendant. The copies of summonses and the copies of the complaint, which you have submitted, will be forwarded by the Clerk to the United State.

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Marshal, who is responsible for service. The Marshal has USM-285 forms you must complete so that the Marshal can locate and serve each defendant. If the forms are sent to you, you must complete them in full and return the forms to the Marshal.

QUESTIONS TO BE ANSWERED

1. Jurisdiction is asserted pursuant to (CHECK ONE)

☒ 42 U.S.C. § 1983 (applies to state prisoners)

☐ Bivens v. Six Unknown Named Agent of Fed. Bureau of Narcotics,  
403 U.S. 388 (1971) and 28 U.S.C. § 1331 (applies to federal prisoners)

If you want to assert jurisdiction under different or additional statutes, list these below:

2. Previously Dismissed Federal Civil Actions or Appeals

If you are proceeding in forma pauperis, list each action or appeal you have brought in federal court while you were incarcerated or detained in any facility, that was dismissed as frivolous or malicious, or for failure to state claim upon which relief may be granted. Please note that a prisoner who has on three or more prior occasions, while detained in any facility brought an action or appeal in a federal court that was dismissed as frivolous or malicious, or for failure to state a claim upon which relief may be granted, will be denied in forma pauperis status unless that prisoner is under imminent danger or serious physical injury. See 28 U.S.C. § 1915 (g).

a. Parties to previous lawsuit:

Plaintiff(s): \_\_\_\_\_

Defendant(s): \_\_\_\_\_

b. Court and docket number: \_\_\_\_\_

c. Grounds for dismissal: ( ) frivolous ( ) malicious ( ) failure to state a claim upon  
which relief may be granted

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- d. Approximate date of filing lawsuit: \_\_\_\_\_
- e. Approximate date of disposition: \_\_\_\_\_

If there is more than one civil action or appeal, describe the additional civil actions or appeals using this same format on separate sheets.

3. Place of Present Confinement? Northern State Prison Ad Seg 2-wing cell #315

4. Parties

(In item (a) below, place your name in the first blank and place your present address in the second blank. Do the same for additional plaintiff's if any)

a. Name of Plaintiff: MR. Nigel Brown 334079C - 139243

Address: Northern State Prison P.O. Box 2300  
Newark, New Jersey 07114

Inmate #: 334079C / 139243

b. First Defendant - name: New Jersey Department of Correction - East Jersey State Prison

Official position: CMS C Correctional Medical Services

Place of employment: St. Francis Medical Center

How is this person involved in the case?

(i.e. what are you alleging that this person did or did not do that violated your constitutional rights?)

My constitutional rights were violated by me receiving surgery  
as a result of this medical malpractice my right hand  
is severely disfigured due to a blotch operation by in-  
competent medical providers.

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c. Second Defendant -- name: \_\_\_\_\_

Official position: \_\_\_\_\_

Place of employment: \_\_\_\_\_

How is this person involved in the case?

(i.e. what are you alleging that this person did or did not do that violated  
your constitutional rights?)

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

d. If there are more than two defendants, attach a separate sheet. For each  
defendant specify: (1) name; (2) official position (3) place of employment (4)  
involvement of this defendant.

5. I previously have sought informal or formal relief from the appropriate  
administrative officials regarding the acts complained of in the Statement of  
Claims on page 6.

\_\_\_\_\_ Yes \_\_\_\_\_ No

If your answer is "Yes", briefly describe the steps taken, including how relief was  
sought, from whom you sought relief, and the results.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

If your answer is "No", briefly explain why administrative remedies were not exhausted.

\_\_\_\_\_  
\_\_\_\_\_

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Statement of Claims

(State here as briefly as possible the facts of your case. Describe how each defendant violated your rights, giving dates and places. If you do not specify how each defendant violated your rights and the date(s) and place of the violations, your complaint may be dismissed. Include also the names of other persons who are involved, including dates and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Use as much space as you need. Attach a separate sheet if necessary.

History & Indications: I the patient was a 26-year-old male who was  
(one)  
1 year status post a displaced fracture of the second metacarpal.

I the patient went on to healing of the fracture with deformity with  
a large dorsal callus and angulation of the fracture. I also noted to  
the ordering provider which was Rafael Enukashvili, Medical Doctor which  
was a year ago in Trenton State Medical Department shortening  
and pseudoflexion deformity. X-rays confirmed a dorsally angulated  
second metacarpal with a large, prominent dorsal callosity despite  
remodeling. I the patient had fairly good function, however  
was unhappy with the deformity and the shortening of the hand.  
I also had discomfort with attempts at full extension. After  
discussing options with Rafael Enukashvili, Medical Doctor,  
it was felt that I might benefit from an osteotomy with  
correction of the deformity and compression plating.

The actual date of the surgery was on Jan 24, 2006. The  
Surgeon: Mark Pressman, M.D. and Anesthesiologist Laurence Schachter,  
M.D.

Operative Procedure: I the patient was taken to the operating,



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Medical Reports

continued

Room and placed on the operating room table in supine position. After adequate anesthesia was obtained the limb was elevated for exsanguination and the tourniquet was inflated to 250 mm Hg. A longitudinal incision was made just to the ulnar side of the second metacarpal, directly over the deformity. The incision was extended down through skin and subcutaneous tissue. The superficial veins and nerves were protected. The extensor tendon was reflected towards the ulnar side, and the soft tissue and periosteum directly over the metacarpal were incised longitudinally with the Bowie. Hemostasis was obtained using Bowie cautery. Subperiosteal dissection was carried out on both the radial and ulnar sides of the second metacarpal exposing the area of deformity. Once it was fully exposed, retractors were placed to protect the soft tissues and an oscillating saw was used to make an oblique osteotomy cut at the apex of the deformity, starting proximally and dorsally and angled distally and towards the ulnar surface. Once the osteotomy was completed, the angular deformity was corrected as was the shortening. The fracture fragments were held in a reduced position. Care was taken to maintain proper rotation. Of note was that there was a rotation deformity preoperatively and this was corrected intraoperatively by removing some bone from the ulnar side of the distal fragment. Once this was done, the fragments were held in place with a bone-holding clamp and a 6-hole plate was chosen from the 2.0 mm modular hand set. The plate was applied to both fragments and clamped into place. It was affixed to bone first proximally with 3 screws and then distally. Unfortunately, one of the screw heads broke off during insertion, and the screw remained embedded in the proximal end of the distal fragment. It was felt that the 2-screw fixation with 4 cortices distally was adequate fixation. There was a small gap on the radial side of the metacarpal and this was filled with Grafton gel. This was done after the area was irrigated. The image intensifier was used to confirm the reduction in AP, lateral, and oblique planes. The hardware was felt to be good position, and reconstitution of the length of the metacarpal. Rotation was also checked with the fingers in the flexed position and it was felt there was good rotation.

The periosteum and deep soft tissues were then reapproximated using 3-0 Vicryl in interrupted fashion. The subcutaneous tissue were also closed with 3-0 Vicryl in interrupted fashion. The skin was closed with 4-0 Monocryl in a running, subcuticular fashion. The wound was then cleansed and dressed with Steri-Strips, bacitracin Adaptic, fluffs, and soft roll followed by a volar splint with the wrist held in neutral position and the fingers free for range-of-motion. The tourniquet was released at 62 minutes. The patient tolerated the procedure well and went to the recovery room in stable condition.

After I the patient had surgery, done to my right hand a month later had went by and I started receiving therapy in Trenton State Prison the Medical Department which began Feb 23, 2006 & the patient had visit the Therapist: MARK Duchow at first my right hand was doing well and then I started feeling some pain. Then I repeatedly ask the Therapist when the swelling was suppose to go down. He then stated that was the way it suppose to remain plus wrote it down on his referral form. Then I stated to him on a another visit that I couldn't make a fully clench fist. Around that time the therapy session had ended on April 29, 2006. Also he had refered me to the Orthopedic: Rafeal Enukashvili, M.D. which took place on July 27, 2006 and when I did visit the bone specialist also located in Trenton State Prison Medical Department. X-rays were taken to see what was causing the problems. What the Orthopedic: Rafeal Enukashvili, M.D. stated that the metal compression plating, was causing the deformity in my right hand plus it would have to be removed and the second metacarpal would have to be filed down something that should've happen in the first place. Also the metal compression plating, was never necessary. I told him that I would be removing surgery once again. The problem that I have with that is that the result maybe much worse than they are now.



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7. Relief

(State briefly exactly what you want the court to do for you. Make no legal arguments. Cite no cases or statutes.)

Compensation and to stop their medical mist-  
practices.

8. Do you request a jury or non-jury? (Check only one)

(☒) Jury Trial

( ) Non-Jury Trial

I declare under penalty of perjury that the foregoing is true and correct.

Singed this Nov day of 01, 20 06.

Nigel Brown

Signature of Plaintiff

EACH PLAINTIFF NAMED IN THE COMPLAINT MUST SIGN THE COMPLAINT HERE. ADD  
ADDITIONAL LINE IF THERE IS MORE THAN ONE PLAINTIFF. REMEMBER, EACH PLAINTIFF  
MUST SIGN THE COMPLAINT.